

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:	:	
	:	
Andrew Michael Parker	:	Case No.: 19-10118
Lydia Mary Parker	:	Chapter 7
	:	Judge Jeffery P. Hopkins
Debtor(s).	:	*****
	:	
	:	

**MOTION OF NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER FOR RELIEF
FROM STAY ON FIRST MORTGAGE FOR REAL PROPERTY LOCATED AT 688
LIBBEJO DR, CINCINNATI, OH 45233-4738**

Nationstar Mortgage LLC d/b/a Mr. Cooper (the "Creditor") moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. In support of this Motion, the Creditor states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On May 13, 2005, Andy Parker obtained a loan from America's Wholesale Lender in the amount of \$114,750.00. Such loan was evidenced by a Promissory Note dated May 13, 2005 (the "Note"), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, Andrew Michael Parker and Lydia Mary Parker (collectively "Debtor") executed a Mortgage dated May 13, 2005 (the "Mortgage"). The Mortgage granted a lien on the property owned by Debtor, located at 688 Libbejo Dr, Cincinnati, OH 45233-4738 (the "Property") and more fully described in the Mortgage. Andrew M. Parker and Lydia M. Parker, husband and wife, for their joint lives, remainder to the survivor of them, his or her separate heirs and assigns forever, acquired title with rights of survivorship by virtue of a General Warranty Deed from Parker's Management, LLC an Ohio Limited Liability Company, dated January 10, 2011, filed January 12, 2011, recorded at Official Instrument Number 11-0005971, Recorder's Office, Hamilton County, OH. A copy of said Deed is attached as Exhibit B. Parker's Management, LLC, an Ohio Limited Liability Company, acquired title by virtue of a General Warranty Deed from Andrew M. Parker and Lydia M. Parker, husband and wife, dated April 13, 2012, filed April 17, 2012, recorded at Official Instrument Number 12-0048632, Recorder's Office, Hamilton County, OH. A copy of said Deed is attached as Exhibit C.
4. The lien created by the Mortgage was duly perfected by the filing of the Mortgage in the office of the Hamilton County Recorder on June 2, 2005. A copy of the Mortgage is attached as Exhibit D. The lien is the first lien on the Property.
5. The Note was transferred as follows:
 - a. from Countrywide Home Loans, Inc., a New York Corporation Doing Business as America's Wholesale Lender to _____. The transfer is evidenced by the indorsement attached to this Motion as Exhibit A. Because the endorsement is in blank and Creditor is in possession of the original Note, Creditor is entitled to enforce the instrument.
6. The Mortgage was transferred as follows:

- a. from Mortgage Electronic Registration Systems, Inc., as Nominee for America's Wholesale Lender, Its Successors and Assigns to Nationstar Mortgage LLC D/B/A Mr. Cooper, dated January 15, 2019. The transfer is evidenced by the document attached to this Motion as Exhibit E.
7. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.
8. The value of the Property is \$82,920.00. This valuation is based on Debtor's Schedule D which is attached as Exhibit F.
9. As of January 16, 2019, there is currently due and owing on the Note the principal balance of \$80,426.99, plus interest accruing thereon at the rate of 5.000% per annum from August 1, 2018.
10. Other parties known to have an interest in the Property are as follows:
 - a. the Hamilton County Treasurer;
11. The balance on Creditor's first mortgage exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
12. The Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reason(s):
 - a. Debtor/Obligor has failed to provide adequate protection for the lien held by the Creditor for the reasons set forth below.
 - b. Debtor has failed to make periodic payments or had made partial payments to Creditor for the months of September 2018 through January 2019 which unpaid payments less any funds being held in suspense are in the aggregate amount of \$4,007.60 through January 16, 2019. The total provided in this paragraph cannot be relied upon as a reinstatement quotation.

- c. Debtor intends to surrender the Property located at 688 Libbejo Dr, Cincinnati, OH 45233-4738 according to the Statement of Intent filed.
- 13. Creditor has completed the worksheet attached as Exhibit G.
- 14. This Motion does not seek to affect the rights of the Chapter 7 Trustee.

WHEREFORE, Creditor prays for an Order from the Court granting Creditor relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code to permit Creditor to proceed under law and for such other and further relief to which the Creditor may be entitled.

Respectfully submitted,

/s/ Adam B. Hall

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Columbus, OH 43216-5028
Telephone: 614-220-5611
Fax: 614-627-8181
Attorneys for Creditor
The case attorney for this file is Adam B. Hall.
Contact email is abh@manleydeas.com

NOTICE OF MOTION

Nationstar Mortgage LLC d/b/a Mr. Cooper has filed papers with the court to obtain relief from stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

Clerk of the United States Bankruptcy Court
Atrium Two, Suite 800
221 East Fourth Street
Cincinnati, OH 45202

OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Manley Deas Kochalski LLC, Attention: Adam B. Hall, P.O. Box 165028 Columbus, OH 43216-5028

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 36 East Seventh Street, Suite 2030, Cincinnati, OH 45202

Elliott Polaniecki, 9000 Plainfield Road, Suite B, Cincinnati, OH 45236
elliottp@cinci.rr.com

Robert A. Goering, Attorney for Andrew Michael Parker and Lydia Mary Parker, 220 West Third Street, Cincinnati, OH 45202
rob@goering-law.com

Andrew Michael Parker and Lydia Mary Parker, 5804 Rapid Run, Cincinnati, OH 45233

Hamilton County Treasurer, County Administration Building, 138 East Court Street, Cincinnati, OH 45202

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

19-002388_KKC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Relief from Stay on First Mortgage for Real Property Located at 688 Libbejo Dr, Cincinnati, OH 45233-4738 was served **electronically** on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court:

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 36 East Seventh Street, Suite 2030, Cincinnati, OH 45202

Elliott Polaniecki, 9000 Plainfield Road, Suite B, Cincinnati, OH 45236,
elliottp@cinci.rr.com

Robert A. Goering, Attorney for Andrew Michael Parker and Lydia Mary Parker, 220 West Third Street, Cincinnati, OH 45202, rob@goering-law.com

and by ordinary U.S. mail on February 12, 2019 addressed to:

Andrew Michael Parker and Lydia Mary Parker, 5804 Rapid Run, Cincinnati, OH 45233

Andrew Michael Parker and Lydia Mary Parker, 688 Libbejo Dr, Cincinnati, OH 45233-4738

Hamilton County Treasurer, County Administration Building , 138 East Court Street , Cincinnati , OH 45202

/s/ Adam B. Hall

Adam B. Hall